



# California Regulatory Notice Register

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OCTOBER 17, 2008

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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**PROPOSED ACTION ON  
REGULATIONS**

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**TITLE 2. FAIR POLITICAL PRACTICES  
COMMISSION**

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

**CONFLICT-OF-INTEREST CODES**

**ADOPTION**

MULTI-COUNTY: ALPAUGH ACADEMIES  
AQUATIC SCIENCE CENTER

**AMENDMENT**

MULTI-COUNTY: ABAG PUBLICLY OWNED  
ENERGY RESOURCES  
CALIFORNIA HOUSING  
WORKERS'  
COMPENSATION  
AUTHORITY  
DUBLIN SAN RAMON  
SERVICES DISTRICT  
EAST BAY MUNICIPAL  
UTILITIES DISTRICT  
MODESTO IRRIGATION  
DISTRICT  
SAN FRANCISCO BAY AREA  
RAPID TRANSIT  
SCHOOL FOR INTEGRATED  
ACADEMICS &  
TECHNOLOGIES  
SIERRA SANDS UNIFIED  
SCHOOL DISTRICT  
WESTLANDS WATER  
DISTRICT

A written comment period has been established commencing on **October 17, 2008**, and closing on **Decem-**

**ber 1, 2008**. Written comments should be directed to the Fair Political Practices Commission, Attention Sarah Olson, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **December 1, 2008**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

**COST TO LOCAL AGENCIES**

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

**EFFECT ON HOUSING COSTS  
AND BUSINESSES**

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

**AUTHORITY**

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-

interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Sarah Olson, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Sarah Olson, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### **TITLE 2. PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

#### **NOTICE OF PROPOSED REGULATORY ACTION**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations.

#### I. PROPOSED REGULATORY ACTION

In this filing, the Board proposes to add Article 6.5 entitled "Membership" in Title 2 of the California Code of Regulations. Sections 578 and 578.1 would be added to Article 6.5. The proposed regulatory action interprets Government Code sections 20125 and 20028 and makes specific the criteria to be used when determining

whether an individual qualifies as an employee for CalPERS retirement purposes.

#### II. WRITTEN COMMENT PERIOD

Any person interested may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on **December 1, 2008**. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via fax at (916) 795-4607; e-mail at: joe\_parilo@calpers.ca.gov; or mailed to the following address:

Joe Parilo, Acting Regulations Coordinator  
California Public Employees' Retirement System  
P.O. Box 942702  
Sacramento, California 94229-2702  
Telephone: (916) 795-3484

#### III. PUBLIC HEARING

Comments on the proposed action will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the CalPERS Benefits and Program Administration Committee of the CalPERS Board:

**December 17, 2008  
9:00 a.m.**

California Public Employees' Retirement System  
Lincoln Plaza North, Auditorium  
400 P Street  
Sacramento, California 95814

#### IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

#### V. AUTHORITY AND REFERENCE

The CalPERS Board of Administration has general authority to take regulatory action under Government Code section 20121. Under Government Code section 20125, the Board has the specific authority to adopt proposed sections 578 and 578.1. This action would interpret Government Code sections 20125 and 20028 and make specific the criteria used when determining employee status for CalPERS retirement purposes.

## VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code section 20125 authorizes the Board to “determine who are employees and is the sole judge of the conditions under which persons may be admitted to and continue to receive benefits under this system.” Government Code section 20028 generally defines an “employee” as “any person in the employ of the state, a school employer or a contracting agency.

Proposed section 578 limits the scope of these regulations to interpreting the California Public Employees’ Retirement Law, Government Code sections 20000–21765, and to employee determinations for retirement purposes.

The determination of employee status is crucial because a) retirement benefits by law may only be provided to designated employees, and b) in order to preserve the federal tax–qualified status of the system, CalPERS must ensure it provides retirement benefits only to the common law employees of the state, school employers and contracting agencies.

Proposed section 578.1 would codify CalPERS’ longstanding practice of utilizing common law requirements to determine employee status and would make specific that the common law employment factors, as discussed in California case law and in a Precedential Decision by the CalPERS Board, are the criteria used to determine employee status under Government Code sections 20125 and 20028 for all individuals providing services to the state, school employers and contracting agencies.

The California Supreme Court, in 2004, confirmed that the common law employment test was the test to be used to determine if individuals were employees of the Metropolitan Water District (a CalPERS contracting agency) for the purposes of CalPERS eligibility. (*Metropolitan Water District of Southern California v. Superior Court* (2004) 32 Cal 4th 491; often referred to as the “Cargill” decision.)

After the *Cargill* decision, the CalPERS Board adopted as precedential its decision entitled *In the Matter of the Application for CalPERS Membership Credit by Lee Neidengard v. Tri–Counties Association for the Developmentally Disabled* (Case No. 05–01), a case which determined whether Lee Neidengard served as an employee or independent contractor when performing service for Tri–Counties Association. In this Precedential Decision, the Board cited the case of *Tieberg v. Unemployment Ins. App. Bd.* (1970) 2 Cal.3d 943, which articulated the common law factors for making such a determination. Citing to *Cargill*, the Board also concluded in *Neidengard* that since the Public Employees’ Retirement Law does not define “independent

contractor” or “employee” of a contracting agency with greater particularity, these terms must be defined with reference to the California common law.

The proposed regulations incorporate the factors referred to in the *Tieberg*, *Cargill* and *Neidengard* decisions as the factors to be used to interpret sections 20125 and 20028 and make specific the criteria used to determine employee status for CalPERS retirement purposes.

## VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to public employees working in positions qualified for membership in CalPERS.

## VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action may achieve a cost savings for CalPERS, resulting from decreased litigation and administrative appeals as employers and individuals become more aware of the criteria used to determine employee status for CalPERS retirement purposes.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500, et seq.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non–discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** The proposed regulatory action has no significant statewide adverse economic impact directly affecting businesses, including the ability of business in California to compete with business in other states.



- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** CalPERS is not aware of any cost impacts that representative private persons or businesses would necessarily incur in reasonable compliance with the proposed action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. **EFFECT ON HOUSING COSTS:** The proposed regulatory action has no effect on housing costs.

#### **IX. CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action. The alternative of adopting no regulation would be less effective and would not lead to the anticipated benefits expected from the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

#### **X. CONTACT PERSONS**

Please direct inquiries concerning the substance of the proposed regulatory action to:

Steve Propp  
Employer Services Division  
California Public Employees' Retirement System  
P.O. Box 942709  
Sacramento, California 94229-2709  
Telephone: (916) 341-2473  
Fax: (916) 341-2744  
E-mail: [steven\\_propp@calpers.ca.gov](mailto:steven_propp@calpers.ca.gov)

Please direct requests concerning processing of this regulatory action to Joe Perilo, Acting Regulations Coordinator, at the address shown above, or (916) 795-3484 ([joe\\_parilo@calpers.ca.gov](mailto:joe_parilo@calpers.ca.gov)).

#### **XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The entire rulemaking file is available for public inspection through the Acting Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Acting Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Joe Perilo, Acting Regulations Coordinator, at the address shown in Section II.

#### **XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT**

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed regulations after the public comment period has closed. It may amend the proposed regulations as modified, if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the modified text will be mailed to all persons who submitted written comments, who testified or submitted written comments at the public hearing, or asked to be kept informed as to the outcome of this regulatory action.

#### **XIII.**

One can access the regulatory material regarding this action at CalPERS' website at [www.calpers.ca.gov](http://www.calpers.ca.gov) under *About CalPERS > Legislation, Regulations & Statutes > Regulatory Actions > Current Regulatory Actions*.

#### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3434, subsections (b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on June 11, 2008. The Department proposes to continue the regulation as amended and to

complete the amendment process by submission of a Certificate of Compliance no later than December 8, 2008.

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended subsection 3434(b) of the regulations in Title 3 of the California Code of Regulations pertaining to Light Brown Apple Moth Interior Quarantine as an emergency action that was effective on June 16, 2008. The Department proposes to continue the regulation as amended and to complete the amendment process by submission of a Certificate of Compliance no later December 8, 2008.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before December 1, 2008.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this State and determine the probability of its spread, and the feasibility of its control or eradication (Food and Agricultural Code Section 5321).

Existing law also provides that the Secretary may establish, maintain and enforce quarantine, eradication and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

The amendments of 3434(b) established additional portions of Contra Costa, Marin, San Mateo, Santa Clara and Solano counties as regulated areas. There is no existing, comparable federal regulation or statute regulating the intrastate movement.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3434 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3434. No reimbursement is required for Section 3434 under Section 17561 of the Government Code because all of the affected county agricultural commissioners requested the change in the regulation.

The Department also has determined that the amended regulation will involve no additional costs or savings to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State.

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

#### EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The cost impact of the amended regulation on a representative private person or business located within the regulated area may be significant. An average infested ornamental nursery producing plants in one-gallon containers may incur initial costs of \$140 to \$218 per acre in eliminating the light brown apple moth to be in reasonable compliance with the proposed action. Approximately 65,000 one-gallon containers may be placed upon one acre. This translates into an initial increased production cost of \$0.002 to 0.003 per one gallon container. The actual costs may vary with the type of material used, size and production practices of the affected businesses.

However, nursery stock that is infested with the light brown apple moth does not meet the current requirements of Section 3060.2, Standards of Cleanliness, California Code of Regulations (CCR), and cannot be

sold. Therefore, there are no additional mandated costs of compliance due to this regulation.

#### ASSESSMENT

The Department has made an assessment that the proposed adoption of the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

#### AUTHORITY

The Department proposes to amend Section 3434 pursuant to the authority vested by Sections 407, 5301, 5302 and 5322 of the Food and Agricultural Code.

#### REFERENCE

The Department proposes this action to implement, interpret and make specific Sections 5301, 5302 and 5322 of the Food and Agricultural Code.

#### EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

#### CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding

the substance of the proposed regulation should be directed to Stephen S. Brown.

#### INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet Web site ([www.cdfa.ca.gov/cdfa.pendingregs](http://www.cdfa.ca.gov/cdfa.pendingregs)).

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

### **TITLE 4. CALIFORNIA HORSE RACING BOARD**

#### **TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS**

#### **NOTICE OF PROPOSAL TO AMEND RULE 2073. OPERATION OF AN ADVANCE DEPOSIT WAGERING ACCOUNT FOR ALL ENTITIES**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 2073, Operation of an Advance Deposit Wagering Account for all Enti-



ties, to allow account holders access to more than one deposit each racing day for wagering purposes.

### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, December 11, 2008**, or as soon after that as business before the Board will permit, at the **Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on December 1, 2008**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6022  
E-Mail: [haroldc@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

### AUTHORITY AND REFERENCE

Authority cited: Sections 19440, 19590 and 19604, Business and Professions Code. Reference: Section 19604, Business and Professions Code.

Business and Professions Code sections 19440, 19590 and 19604 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific section 19604, Business and Professions Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the

purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control for horse racing and pari-mutual wagering. Business and Professions Code section 19590 states the Board shall adopt rules governing, permitting, and regulating pari-mutuel wagering on horse races under the system known as the pari-mutuel method of wagering. Pari-mutuel wagering shall be conducted only by a person or persons licensed under this chapter to conduct a horse racing meeting or authorized by the Board to conduct advance deposit wagering. Business and Professions Code section 19604 provides that the Board may authorize any racing association, racing fair, betting system, or multijurisdictional wagering hub to conduct advance deposit wagering in accordance with this section.

The Board proposes to amend Rule 2073 to delete subsection 2073(m), which provides that an account holder shall only be permitted to access one deposit each racing day for wagering purposes, and additional deposits to an account shall be available for use the next racing day. Subsection 2073(m) was originally added to protect account holders by ensuring that they did not overextend themselves financially. An account holder could make multiple deposits in any given day, but could only access one deposit for wagering purposes. At its September 18, 2008, Regular Meeting, the Board heard a request by advance deposit wagering (ADW) providers to repeal subsection 2073(m). The ADW providers stated removing the provision would eliminate the source of the most customer complaints. ADW customers questioned why they were restricted from accessing multiple deposits with ADW providers when they had the ability to make unlimited transactions at racetracks and simulcast wagering facilities. The providers stated their customers felt the restriction imposed by subsection 2073(m) was paternalistic, and rather than serving as a safeguard against irresponsible wagering, it harmed the ability of otherwise responsible adults to engage in ADW. Repealing subsection 2073(m) would allow ADW customers to make smaller deposits, if they wish, with the understanding that they could make an additional deposit and have those funds available during the same wagering day. At present, ADW account holders must guess at how much they will wager during the day, or make a large deposit to ensure they have funds available. In addition, California is the only racing jurisdiction to have such a restriction. Repealing subsection 2073(m) would allow ADW providers to offer California subscribers the same opportunity subscribers in other states have to access additional deposits on the same day.

**DISCLOSURE REGARDING THE  
PROPOSED ACTION**

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 2073 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 2073 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 2073 does not affect small businesses because horse racing is not a small business under Government Code section 11342.610.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

**CONTACT PERSON**

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [haroldc@chrb.ca.gov](mailto:haroldc@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst  
Telephone: (916) 274-6049  
E-mail: [colleeng@chrb.ca.gov](mailto:colleeng@chrb.ca.gov)

**AVAILABILITY OF INITIAL STATEMENT  
OF REASONS AND TEXT OF  
PROPOSED REGULATION**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

**AVAILABILITY OF MODIFIED TEXT**

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

**AVAILABILITY OF STATEMENT OF REASONS**

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

## BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

## TITLE 4. DEPARTMENT OF TRANSPORTATION

### NOTICE OF PROPOSED RULEMAKING

#### TO ALL INTERESTED PERSONS

The California Department of Transportation (Department) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action. Following the public hearing and comment period, the proposal may be adopted substantially as set forth without further notice.

#### PUBLIC HEARING

The Department will hold a public hearing from 10:00 a.m. to 12:00 p.m. December 1, 2008, at 1120 N Street, Room 1450, Sacramento, California. The building is wheelchair accessible. At the hearing any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m., December 1, 2008. The Department will consider only comments received by that time. Submit comments to:

James Arbis  
Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814

## AUTHORITY AND REFERENCE

Business and Professions Code Sections 5250 and 5415 authorize the Department to adopt the proposed regulatory actions which would implement, interpret or make specific Sections 5205, 5216, 5223, 5225, 5251, 5272, 5273, 5273.5, 5301, 5302, 5354, 5358, 5360, 5400, 5405, 5408, 5440, 5463, 5482, 5484 and 5485 of the Business and Professions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department proposes to amend Sections 2241, 2242, 2243, 2244, 2245, 2270, 2271, 2272, 2401, 2422, 2422.1, 2424, 2444, 2511, 2512 and 2513 in Title 4 of the California Code of Regulations.

Business and Professions Code Sections 5250 and 5415 authorize and require the Department to promulgate regulations to enforce the Outdoor Advertising Act (Business and Professions Code Sections 5200 et seq.) consistent with national standards. The Outdoor Advertising Act and national standards provide specific requirements and restrictions concerning the specifications of outdoor advertising displays and the conduct of outdoor advertising activities, including licensing and permitting requirements. Moreover, there is statutory authority that concerns violation and enforcement provisions related to displays, permits and licenses. The existing regulations were enacted in 1978 and later amended in 1999 to implement State statutory and Federal statutory and regulatory authority.

The proposed regulatory action will implement the Outdoor Advertising Act and national requirements concerning the placement of outdoor advertising, conduct of outdoor advertising activities, administration of permit and licensing requirements, violations and the enforcement process. Moreover, this regulatory action updates language and terminology used by the Department and the industry.

Section 2241(b) changes Office of Administrative Hearing (OAH) hearings from using certified court reporters to recording electronically, resulting in considerable savings.

Section 2241(b)(2) designates Government Code section 11508 to locate where hearings will be held.

Section 2241(b)(5) adds precedent decision provisions.

Section 2241(b)(6) makes unsuccessful applicants responsible for OAH costs.

Section 2242 (intro) provides a technical change referencing the California Outdoor Advertising Act and Business and Professions Code.

Section 2242(a) adds "accepts" to the definition.

Section 2242(d) provides clarification of the definition for "Message Center Display."

Section 2242(i) provides a technical change by deleting repeated words “of the Department.”

Section 2242(k) adds definition of “Electronic Message Display.”

Section 2242(m) adds a technical change explaining the facing of an advertising display.

Section 2242(r) provides a technical change adding advertising copy to definition.

Section 2242(y) adds a definition of “static display.”

Section 2242(z) adds a definition of “tri-vision displays.”

Section 2243 (intro) provides a technical change including being subject to applicable provisions of the California Outdoor Advertising Act.

Section 2243(f) adds local government approval for on-premise displays.

Section 2244 rewrites Redevelopment Area permit standards.

Section 2245 (intro) provides a technical change adding “Redevelopment.”

Section 2245(b) adds information regarding extensions.

Section 2270(b)(3) adds second facing.

Section 2270(b)(6) provides technical change replacing Changeable message with message center display.

Section 2270(b)(7) adds conversion of a static display to a message center display as requiring a new permit.

Section 2271 rewrites criteria of destroyed display (required by feds).

Section 2272 conforms “abandoned display” language to new destroyed display criteria.

Section 2401(7), (8) and (9) include additional examples of activities that are not considered as commercial or industrial.

Section 2422(a)(1) includes requirements of a separate application for each side of a display.

Section 2422(a)(2) provides a technical change which includes the Department’s address.

Section 2422(a)(5) adds “technical” and “incomplete application” when describing application deficiencies.

Section 2422(b)(1) provides technical change adding Sacramento.

Section 2422(b)(2)(C) provides procedures when application is incomplete, and precedence if another application is received.

Section 2422(b)(2)(E) provides meaning of “a new alignment.”

Section 2422(b)(2)(F) provides meaning of “widening or extensive modification.”

Section 2422(b)(3) provides procedures when application is incomplete.

Section 2422(b)(4) provides time frame for confirmation of compliance or non-compliance with law.

Section 2422.1 adds a permit fee.

Section 2424(a)(2) includes a technical change regarding the current form for permit renewal.

Section 2424(a)(2)(C) clarifies responsibility of permit holders to renew, even if a renewal application was not received.

Section 2424(a)(6)(A) clarifies the time limit is 30 days before a permit can be cancelled for nonpayment.

Section 2424(a)(9) adds information regarding permits for multi-sided displays.

Section 2444(5) adds provision canceling an Outdoor Advertising license if a licensee uses bribery or other undue influence.

Section 2511(a) provides a technical change which includes requests for review.

Section 2512(a) adds a \$300 fee for each request for landscape reclassification.

Section 2513(c)(7) changes words to read properly.

In conclusion, this regulatory action proposes to amend and adopt regulations in Title 4, Division 6 of the California Code of Regulations for consistency and to effectively serve the Department and the public.

## DISCLOSURES REGARDING THE PROPOSED ACTION

### *The Department has made the following initial determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other non-discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

Adoption of this regulatory action will not:

- (1) create or eliminate jobs within the state of California;
- (2) create new businesses or eliminate existing businesses within the state of California; or
- (3) affect the expansion of businesses currently doing business within the state of California.

Significant effect on housing costs: None.



### ***Small Business Determination***

The Department has determined that the proposed regulatory action may affect small businesses, but will have no economic impact.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action at the scheduled hearing or during the written comment period.

### **CONTACT PERSON**

Inquiries concerning the proposed regulatory action may be directed to:

James Arbis  
Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814  
Telephone: (916) 653-3042

Or

Kenneth Parmelee  
Office of Outdoor Advertising  
California Department of Transportation  
1120 N Street, MS-36  
Sacramento, CA 95814  
Telephone: (916) 651-9327

Questions on the substance of the proposed regulatory action may be directed to James Arbis.

Please direct requests for copies of the proposed text (the "express terms") of the regulatory action, the initial statement of reasons, the modified text of the regulatory action, if any, or other information upon which the rulemaking is based to James Arbis at the above address.

### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is

published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting James Arbis at the address or phone number listed above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the public hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to James Arbis at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting James Arbis at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through the Department's website at [www.dot.ca.gov/oda](http://www.dot.ca.gov/oda).

## **TITLE 18. STATE BOARD OF EQUALIZATION**

### **NOTICE IS HEREBY GIVEN**

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes amendments to Regulation 1506, *Miscellaneous Service Enterprises*, and Regulation 1524, *Manufacturers of Personal Property* in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on December 16, 2008. At

the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 16, 2008.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CURRENT LAW, REVENUE AND TAXATION CODE section 6018.6, *Alterations, cleaning, or dyeing of garments*, provides that cleaners are consumers of property used in their cleaning operations and are not required to hold seller's permits. Unlike other garment-alteration establishments, the law provides that cleaners who provide garment alterations to their customers (whether the alterations are to new or used garments) are providing nontaxable services and, therefore, are the consumers of items furnished or used in altering the garments as long as the alteration activities represent a small percentage, as specified by law, of their business. When meeting this condition, cleaners are generally not required to hold seller's permits.

RTC section 6018.6 defines cleaners as those who (1) operate a location or locations as a pickup and delivery point for garment cleaning; or (2) provide spotting and pressing services on the premises but not garment cleaning; or (3) operate a garment cleaning or dyeing plant on the premises.

Cleaners that meet *one* of the three provisions above must also satisfy *both* of the following conditions for the exclusion to apply.

Seventy-five percent (75%) or more of the cleaner's total gross receipts must come from their clothes cleaning or dyeing services.

Twenty percent (20%) or less of the cleaner's total gross receipts during the prior calendar year came from the alteration of new and used garments.

For purposes of the calculation, *total gross receipts* include all charges made by cleaners, including the cleaner's charges for cleaning or dyeing customer items, charges for altering garments, charges for altering other personal and household items, charges for creating new items such as wearing apparel, *and* the cleaner's sales of miscellaneous products (e.g., lint brushes, abandoned clothing, or ties).

**Alteration of garments by a third party** — As explained, cleaners who fulfill the threshold requirements of RTC section 6018.6 are consumers, not retailers, of the property used or furnished in altering new and used garments alike. Therefore, when the cleaner contracts with a third party, such as a tailor, for the alteration of garments instead of performing the alterations themselves, the third party's charge to the cleaner for altering

the garments is subject to tax as provided by Regulation 1524, proposed subdivision (b)(1). Even though the cleaner may hold a seller's permit due to its sales of miscellaneous items, since the cleaner is a consumer under RTC section 6018.6, it may not issue the third party a resale certificate for such alterations.

**Charges for altering garments and other items** — In general, whether tax applies to a person's charge for altering garments, personal items, or household items is dependent on whether the altered item is "new" or "used" at the time the alterations are performed. The Board has consistently held that the "processing" of "new" material furnished by a consumer is a sale as defined by RTC section 6006. This includes the altering of "new" garments, personal items, and household items. Altering "used" items has consistently been interpreted as repair or reconditioning labor and excluded from the definition of a sale under RTC section 6006.

Persons who alter "new" garments (except for cleaners who fulfill the requirements of RTC section 6018.6) or "new" personal and household items are regarded as manufacturing, producing, processing, or fabricating personal property. Accordingly, they are required to hold seller's permits and report the taxes due on charges to their customers for labor and materials.

Labor charges made for altering "used" garments, personal items, or household items are considered nontaxable repair or reconditioning labor. Except under certain circumstances (see Exhibit 2), the person altering the used item is the consumer of the supplies and materials furnished in connection with the alterations.

**What is "fabrication" or a "step in the process"** — When changes are made to "new" garments or other personal and household items by cutting and re-sewing the item into a slightly different shape or length, the person making the change is performing a step in the process (fabrication) of producing a "new" product. Consequently, if changes are made to a "new" item to make it suitable for the customer to wear or use, those changes constitute a part of the process of fabrication. This is true even when an item is not remade into a different type of item (i.e., change a coat into a cape).

Historically, the Board has considered an item "new" when the item is brought in by the customer without hems or cuffs, or with store tags or labels still attached, or the item is clearly new and unworn/unused to the observer. In essence, an item is considered new until such time the customer has worn or used the item for its intended purpose.

On the other hand, labor charges for mending, shortening or lengthening, taking in or letting out, or otherwise altering "used" garments or other personal and household items are not taxable when such alterations merely refit or repair the item for the use for which it

was originally produced. An item is considered “used” when it has been worn or used for its intended purpose.

**Current provisions in Regulations 1506 and 1524**

— Guidance regarding how tax applies to the gross receipts of launderers and cleaners is currently provided in Regulation 1506, subdivision (b)(1), which also provides guidance for “barbers,” “beauty shop operators,” and “shoe polishers.” Subdivision (b)(2) discusses the application of tax to the charges made by launderers and cleaners for the rental of linen supplies and similar items, including towels, uniforms, coveralls, shop coats, and dust cloths rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning the items rented. Launderers and cleaners are consumers of the items rented.

Guidance regarding how tax applies to charges for altering new garments is provided in the current version of Regulation 1524, subdivision (b)(1). The subdivision discusses the application of tax to alteration charges in general. Subdivision (b)(2) provides guidance regarding the application of tax to a cleaner’s charges for altering garments and, essentially, restates the provisions of RTC section 6018.6.

**Proposed Regulations 1506 and 1524**

Regulations 1506 and 1524 are proposed to be amended to clarify how tax applies to charges made by cleaners for their cleaning and dyeing services and when such persons are required to hold a seller’s permit. The proposed amendments also clarify how tax applies to a cleaner’s alteration charges when the cleaner meets the threshold requirements of Revenue and Taxation Code section 6018.6. Cleaners that do not meet the threshold requirements would rely on Regulation 1524 for guidance regarding their alteration charges. The proposed amendments to Regulation 1524 also clarify how tax applies to charges for the alteration of new and used items in general.

**Proposed Regulation 1506** — The Board recommends that a new subdivision (c) be added to Regulation 1506 and the current subdivision (c) be renumbered as subdivision (d). Proposed subdivisions (c)(1) and (c)(2) clarify how tax applies to a cleaner’s charges for its cleaning and rental services, and proposed subdivision (c)(3) clarifies how tax applies to charges for dyeing garments.

Staff also recommends that subdivision (b)(2) in Regulation 1524 (current version), which restates the requirements of RTC section 6018.6, be removed from the regulation and incorporated into proposed, renumbered subdivision (c)(4)(A) of Regulation 1506. A new paragraph (B) would also be added to subdivision (c)(4) to clarify how tax applies to the charges by a third party who alters the garments on behalf of the cleaner. Pro-

posed subdivision (c)(5) would be added to Regulation 1506 to clarify how tax applies to a cleaner’s sales of miscellaneous items and the need for the cleaner to hold a seller’s permit when making such sales.

**Proposed Regulation 1524** — The Board recommends that the provisions regarding the application of tax to alterations to “new” garments in the current version of Regulation 1524, subdivision (b)(1) be rewritten and expanded to clarify how tax applies to charges for altering “new” items in general, including garment alterations by cleaners who do not meet the threshold requirements of RTC section 6018.6. Proposed subdivision (b)(1)(B) clarifies how tax applies to the charges for altering “used” items and explains under what circumstances the person providing the alteration service would be a retailer of the supplies and materials furnished in connection with the alteration of the “used” item.

**COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

**EFFECT ON BUSINESS**

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization makes an initial determination that the adoption of Proposed Regulations 1506 and 1524 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

**COST IMPACT ON PRIVATE PERSON OR BUSINESSES**

The Board is not aware of any cost impacts that a representative private person or business would necessari-

ly incur in reasonable compliance with the proposed action.

#### **SIGNIFICANT EFFECT ON HOUSING COSTS**

No significant effect.

#### **FEDERAL REGULATIONS**

Proposed Regulations 1506 and 1524 have no comparable federal regulations.

#### **AUTHORITY**

Section 6018.6 Revenue and Taxation Code.

#### **REFERENCE**

Section 6006 Revenue and Taxation Code.

#### **CONTACT**

Questions regarding the substance of the proposed regulation should be directed to Ms. Lisa Andrews (916) 322-5989, at 450 N Street, Sacramento, CA 95814, e-mail [Lisa.Andrews@boe.ca.gov](mailto:Lisa.Andrews@boe.ca.gov) or by mail at State Board of Equalization, Attn: Lisa Andrews, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail [Richard.Bennion@boe.ca.gov](mailto:Richard.Bennion@boe.ca.gov) or by mail at State Board of Equalization, Attn: Rick Bennion MIC:81, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

#### **ALTERNATIVES CONSIDERED**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

#### **ADDITIONAL COMMENTS**

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

#### **TITLE 18. STATE BOARD OF EQUALIZATION**

#### **NOTICE IS HEREBY GIVEN**

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes regulatory changes to Sales and Use Tax Regulation 1705, *Relief from Liability*, in Title 18, Division 2, Chapter 4, of the California Code of



Regulations, relating to sales and use tax. A public hearing on the proposed regulation amendments will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on Tuesday, December 16, 2008. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 16, 2008.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

**CURRENT LAW:** Revenue and Taxation Code section (Section) 6596 provides relief from tax, interest, and penalty charges due on a transaction if the Board determines that the taxpayer failed to pay tax because it reasonably relied on erroneous written advice from the Board. For relief to apply, the Board must have received a written request for advice on the transaction, the request must have identified the taxpayer to whom the advice applied, and the request must have fully described the facts and circumstances of the transaction. Section 6596 subdivision (d) states that, “[o]nly the person making the written request shall be entitled to rely on the board’s written advice to that person.” Accordingly, taxpayers cannot obtain relief by relying on a written opinion given to another business, even if the transactions are similar. However, a taxpayer may rely on advice given to the taxpayer’s representative provided that the representative identifies the person for whom the advice is requested. Regulation 1705, *Relief from Liability*, is based upon Section 6596 and explains its provisions in more detail. In 1999, Regulation 1705 was amended to extend Section 6596 relief to trade or industry association members when an association requests written advice on behalf of its members. In order to obtain relief under Section 6596, the members must be identified in the association’s request for advice. Proposed regulatory changes to Regulation 1705, explain that similar relief applies to franchisees and franchisors.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code, or other non-discretionary cost or savings imposed on

local agencies, or cost or savings in Federal funding to the State of California.

#### EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization makes an initial determination that the proposed regulatory changes to Sales and Use Tax Regulation 1705 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

#### COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS

Proposed Regulation 1705 has no comparable federal regulations.

#### AUTHORITY

Section 7051, Revenue and Taxation Code.

#### REFERENCE

Section 6596, Revenue and Taxation Code.

#### CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Lisa Andrews (916) 322-5989, at 450 N Street, Sacramento, CA 95814, e-mail [Lisa.Andrews@boe.ca.gov](mailto:Lisa.Andrews@boe.ca.gov) or by mail at State Board of Equalization, Attn: Lisa Andrews, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail [Richard.Bennion@boe.ca.gov](mailto:Richard.Bennion@boe.ca.gov) or by mail at State Board of Equalization, Attn: Rick Bennion MIC:81, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

#### ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

#### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the pub-

lic for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Mr. Bennion. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

## TITLE 22. DEPARTMENT OF AGING

### NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF THE CALIFORNIA DEPARTMENT OF AGING

NOTICE IS HEREBY GIVEN that the California Department of Aging, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of Sections 87300 through 87302, and Section 87306, of the Government Code.

The Political Reform Act (Section 81000 and following, Gov. C.) requires each governmental agency, including both houses of the Legislature, to adopt a conflict of interest code and agency personnel covered by the code to periodically file a financial disclosure statement known as a statement of economic interests (see Secs. 87300 and 87302, Gov. C.). Among other things, an agency's conflict of interest code must enumerate employee positions within the agency that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest and, for each enumerated position, the specific types of investments, business positions, interests in real property, and sources of income and gifts which are disclosable on the statement of economic interests (Sec. 87302, Gov. C.).

The California Department of Aging proposes to amend its Conflict of Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment contains a clear and concise summary of deletions and modifications that are listed below. Note, modifications are to titles on Appendix A only, the duties of the job classifications remain unchanged:

Deletions

1. Commissioners and Executive Director, California Commission on Aging: attached is a copy of the FPPC Advice Letter that recommends that the CCOA adopt and file under their own Conflict of Interest Code.
2. Chief, Administrative Services Branch: this title is no longer used, incumbents are covered under Deputy Directors.
3. Chief, Fiscal Operations Branch and Personnel Officer: these titles are no longer used, incumbents are included under SSM, all levels.
4. Business Services Officer II (Supervisor), Associate Health Program Advisor classifications, and Nursing Consultant classifications: these classifications are no longer used.
5. Information Officer I: This classification is no longer used.

Modifications

1. Consultant\* (Pursuant to Government Code Section 82019): this position was moved to be the last item listed for disclosure category one. The position was modified to read, “\*All Consultants (Pursuant to Government Code Section 82019).”
2. Deputy Director, Program Development and Administration Division and Deputy Director, Long-Term Care and Aging Services Division: these positions were modified to read, “All Deputy Directors.”
3. Chief Counsel and Staff Counsel III (Specialist): these positions were modified to read, “Staff Counsels, all levels.”
4. Assistant Directors (Exempt): these positions were modified to read, “All Exempts.”
5. Business Services Assistant: this position was modified to read, “Business Services Assistant/Officer, all levels.”
6. All Aging Program Analyst classifications: this position was modified to read, “Aging Program Analyst, all levels.”
7. All Auditor classifications: this position was modified to read, “Auditors, all levels.”
8. All Public Health Nutrition Consultant IIs, IIIs: these positions were modified to read, “Public Health Nutrition Consultants, all levels.”
9. All Staff Services Managers and equivalent level classes: this position was modified to read, “Staff Services Managers, all levels.”

10. Associate Governmental Program Analyst and equivalent level classes: this position was modified to read, “All Associate level classifications (To include but not limited to: Associate Governmental Program Analyst, Information Officer, Training Officer).”
11. Health Program Specialist II: this position was modified to read, “Health Program Specialist, all levels.”
12. Staff Information Systems Analyst: this position was modified to read, “Information Technology (all managers, staff, associate, and assistant levels).”

Additions

1. Nurse Evaluator, all levels: These positions have been added.

Copies of the proposed amendments are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments or contentions relating to the proposed amendments by submitting them in writing no later than December 1, 2008 by contacting the Contact Person set forth below. If a public hearing is scheduled, at a minimum, notice of the hearing will be provided to the person or persons who requested the hearing, every person who submitted written comments, and to every person who requested notice of the hearing.

After completion of the written comment period/hearing, the California Department of Aging may adopt the proposed amendments if they remain substantially the same as described in the text originally made available to the public. The California Department of Aging may make changes to the proposed amendments prior to their adoption so long as the text of any modified amendment is made available to the public at least 15 days before the California Department of Aging adopts the amendments. A request for the modified text should be made to the Contact Person set forth below. The California Department of Aging will accept written comments on the modified amendments, addressed to the Contact Person set forth below, for 15 days after the date on which the text is made available.

The California Department of Aging has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The California Department of Aging has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small business.

In making these proposed amendments, the California Department of Aging must determine that no alternative considered by the department would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected private persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

California Department of Aging  
Attn: Annette Roberts  
Human Resources Section  
1300 National Drive, Suite 200  
Sacramento, CA 95834  
(916) 419-7527

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND GAME

Department of Fish and Game —  
Public Interest Notice

For Publication October 17, 2008  
CESA CONSISTENCY DETERMINATION  
REQUEST FOR  
Escondido Sewer Extension Projects  
San Diego County  
2080-2008-025-05

The Department of Fish and Game (Department) received a notice on October 1, 2008 that the City of Escondido proposes to rely on a consultation between fed-

eral agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the operation and maintenance of the Escondido sewer outfall, which extends for approximately 14.2 miles from the Hale Avenue Resource Recovery Facility (HARF) to the San Elijo ocean outfall in north San Diego County, CA (Project). The sewer outfall is a below grade, cement mortar-lined and coated steel pipeline that conveys secondary treated effluent from the HARRF. Project activities would occur at 115 existing facilities (95 manholes, 16 test stations, and 4 rectifier stations and deep anode beds), as well as along existing access roads within the 20-foot-wide easement for the outfall alignment.

Project activities will result in permanent impacts to approximately 0.24 acres of habitat suitable for the Least Bell's vireo (*Vireo bellii pusillus*) and the southwestern willow flycatcher (*Epidonax trailli extimus*), and 0.024 acres of habitat suitable for the light-footed Clapper Rail (*Rallus longirostris levipes*). Additionally, the Project may affect the California brown pelican (*Palecanus occidentalis*), California least tern (*Sterna antillarum browni*), Stephen's kangaroo rat (*Dipodomys stephensi*), thread-leaved brodiaea (*Brodiaea filifolia*), San Diego thorn-mint (*Acanthomintha ilicifolia*), and Encinita baccharis (*Baccharis vanessae*).

The U.S. Fish and Wildlife Service (Service) issued a "no jeopardy" federal biological opinion (FWS-SDG-08B0511-08F0564)(BO) and incidental take statement (ITS) to the U.S. Army Corps of Engineers in September 2, 2008 which considered the effects of the project on the Federally and State endangered least Bell's vireo, the Federally and State endangered southwestern willow flycatcher, Federally and State endangered light-footed Clapper Rail, Federally and State endangered California brown pelican, Federally and State endangered California least tern, Federally endangered and State threatened Stephen's kangaroo rat, Federally threatened and State endangered thread-leaved brodiaea, Federally threatened and State endangered San Diego thorn-mint, and Federally threatened and State endangered Encinita baccharis. Pursuant to California Fish and Game Code Section 2080.1, the City of Escondido is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, The City of Escondido will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.



DEPARTMENT OF FISH AND GAME

Department of Fish and Game —  
Public Interest Notice  
 For Publication October 17, 2008  
 CESA CONSISTENCY DETERMINATION  
 REQUEST FOR  
 I580 Isabel Avenue Interchange Project  
 Alameda County  
 2080-2008-024-03

The Department of Fish and Game (Department) received a notice on September 29, 2008 that the City of Livermore (Livermore) and Caltrans propose to rely on a consultation between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (CESA). This project consists of the construction of a new interchange on Interstate 580 at Isabel Avenue between Jack London Boulevard and Portola Avenue; a bridge overcrossing structure at Isabel Avenue and Interstate 580; on- and off-ramps from Isabel Avenue to Interstate 580, the demolition and removal of the Portola Avenue interchange ramps and overcrossing bridge structure; the extension of Portola Avenue northward from East Airway Boulevard to the proposed Isabel Avenue; and improvements to Kitty Hawk Road, Liberbergh Avenue, Airway Boulevard and East Airway Boulevard. Project activities associated with staging and construction will result in permanent impacts to 21.023 acres of habitat suitable for the San Joaquin kit fox (*Vulpes macrotis mutica*), as well as a likelihood of direct injury or mortality.

The U.S. Fish and Wildlife Service (Service) issued a “no jeopardy” federal biological opinion (1-1-07-F-0280)(BO) and incidental take statement (ITS) to Caltrans (designated as lead agency as per Memorandum of Understanding with the Federal Highway Administration) on August 1, 2007, which considered the effects of the project on the Federally endangered and State threatened San Joaquin kit fox.

Pursuant to California Fish and Game Code Section 2080.1, Livermore is requesting a determination that the BO and ITS are consistent with CESA for purposes of the proposed Project. If the Department determines the BO and ITS are consistent with CESA for the proposed Project, Livermore will not be required to obtain an incidental take permit under Fish and Game Code section 2081 for the Project.

DEPARTMENT OF TOXIC SUBSTANCES  
 CONTROL

**CALIFORNIA ENVIRONMENTAL  
 PROTECTION AGENCY  
 DEPARTMENT OF TOXIC  
 SUBSTANCES CONTROL  
 NOTICE TO INTERESTED PARTIES**

DTSC SEEKS JUDICIAL APPROVAL OF  
 SETTLEMENT AGREEMENT WITH THE  
 PARTY WHO OWNS THE SPACE BANK MINI  
 STORAGE FACILITY SITE, ALSO KNOWN  
 AS THE FORMER NAVAL INFORMATION  
 RESEARCH FOUNDATION UNDER SEA  
 CENTER SITE, IN PASADENA, CALIFORNIA.

The Department of Toxic Substances Control (“DTSC”) has agreed to enter into a “Consent Decree” respecting the Space Bank Mini Storage facility site, also known as the former Naval Information Research Foundation Under Sea Center site, located at 3202 East Foothill Boulevard in the City of Pasadena, California (the “Site”).

BACKGROUND FACTS

**The Complaint.** DTSC plans to file a complaint pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq.* against Space Bank LTD, a California General partnership; Robert Oltman, an individual, and Margaret Schubert, an individual in *California Department of Toxic Substances Control v. Space Bank LTD, a California General partnership; Robert Oltman, an individual, and Margaret Schubert, an individual* (“Settling Defendants”) in the United States District Court for the Central District of California concurrently with the lodging of this Consent Decree. The complaint will allege that the Settling Defendants, as current owners or operators of the Site, are liable for DTSC’s past and future response costs incurred to investigate and clean up releases of hazardous substances at the Site.

**Site Background and Contamination.** The U.S. Department of the Navy (the “Navy”) reportedly constructed the majority of the buildings located on the Site in the period of 1945 to 1954, with the exception of Building 30, which was constructed by the Navy in the 1970’s. Prior to development of the Site with the current

buildings, the Site was developed by C. Temple Murphy Furniture Company, followed by the establishment of the Hamlin and Hood Stoneworks, a plaster casting and stoneworks business, in 1930. In the early 1940's these properties were acquired by Latisteel Corporation of California, a manufacturer of steel framing, and the California Wirebound Box Company. From 1943 to 1945, the Site was leased and developed by Caltech for its torpedo program. From the late 1940's until about 1974, the Navy used the Site primarily for weapons research and development, with focus on propulsion and guidance systems for underwater ordnance. In 1974, the Navy reportedly declared the Site excess and in 1978, the General Service Administration sold the Site to Space Bank LTD, which used the Site for a storage facility and small shops.

Investigations conducted at the Site have detected the presence of various metals, both volatile (Perchloroethylene) and semi volatile organic compounds, and petroleum hydrocarbons. Significant concentrations of lead, 5,870 parts-per-million (ppm); arsenic, 8.8 ppm; benzo (a) pyrene, 100 ppm; benzo (a) anthracene, 100 ppm; mercury, 27 ppm; antimony, 99 ppm; cadmium, 56.9 ppm; chromium, 120 ppm; chrysene, 120 ppm; and PCDD/PCDF (dioxin), 0.002 ppm were detected in the soil and/or sediment. Currently no investigation of groundwater has been conducted.

**Regulatory History.** Certain response actions were conducted by the United States Army Corps of Engineers ("USACE") under the Formerly Used Defense Site program. Due to disagreement between DTSC and USACE over the extent of response actions being taken by USACE, DTSC issued an Imminent and Substantial Endangerment and Remedial Action Order ("Order") to the United States Navy, USACE, and Space Bank LTD in late 2004. DTSC later agreed to withdraw the order and enter into dispute resolution with USACE. The dispute resolution process is ongoing. In addition to this Consent Decree, DTSC is planning to enter into an Agreement and Covenant Not to Sue ("Agreement") with Pasadena Gateway, LLC for the Site. Under the Agreement, Pasadena Gateway, LLC will conduct additional response actions at the Site.

**The Consent Decree.** In cooperation with the DTSC, Settling Defendants have engaged in extensive site assessment and investigation activities relating to potential hazardous waste releases at the Site and Settling Defendants agree to implement and/or cooperate with DTSC in implementing additional response actions as specified in the Consent Decree.

**Entry of the Consent Decree.** DTSC intends to lodge the Consent Decree with the United States District Court for the Central District of California. After a 30-day public comment period and after DTSC responds to any comments received, DTSC intends to

move for judicial approval of the Consent Decree, pursuant to CERCLA section 113(f)(2), 42 U.S.C. § 9613(f)(2).

**Obtaining Copies of the Consent Decree.** Interested parties may obtain copies of the Consent Decree by contacting Douglas Bautista at (714) 484-5442.

**Comments on the Consent Decree.** Written comments with respect to the Consent Decree may be submitted to DTSC on or before **November 17, 2008**. Such comments should reference the former Naval Information Research Foundation Under Sea Center Site and be directed to:

Mr. Douglas Bautista  
NIRF Site Project Manager  
California Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630

DTSC's response to any timely comments will be available for inspection at DTSC's office in Cypress, California. DTSC has reserved the right to withdraw its consent to the Consent Decree or to seek modification of the Consent Decree based on comments received.

Further information regarding this matter may be obtained by contacting DTSC Counsel Robert Elliott at (916) 327-6105 or Deputy Attorney General Dennis Ragen at (619) 645-2016.

## RULEMAKING PETITION DECISION

### BOARD OF ACCOUNTANCY

#### NOTICE OF DECISION ON PETITION TO AMEND REGULATIONS

#### California Code of Regulations (C.C.R.) Title 16. Professional and Vocational Regulations Division 1. State Board of Accountancy Article 9. Rules of Professional Conduct

**Petitioner:**

Carl Olson

**Authority:**

Business and Professions Code Section 5010 provides the California Board of Accountancy (Board) the authority to "adopt, repeal, or amend such regulations as may be reasonably necessary . . . for the administration of this chapter." "This chapter" has to do with the licensing and regulation of the profession of public accountancy in the State of California.

**Contact Person:**

Please direct any inquiries regarding this action to Gary W. Duke, Senior Staff Counsel, Department of

Consumer Affairs, 1625 North Market Blvd., Suite S309, Sacramento, CA 95834.

**Availability of Petition:**

The petition for amendment of the regulations is available upon request directed to the Board's contact person.

**INTRODUCTION**

Currently, restatements of financial reports are generated when a public accountant or CPA has been advised by a regulatory agency that his or her original report was deficient, inaccurate or in need of correction. The reasons for restatements can run the gamut from minor errors to serious breaches of an accountant's duties.

Public accountants are required by law to submit restatement reports to the Board. (Bus. & Prof. Code § 5063(b)(1).) Under this general statutory authority, the Board adopted a regulation that narrowed and limited the self-reporting of restatements to entities that had some nexus to California. (Calif. Code of Regs., tit. 16, § 59.) In relevant part, this regulation requires a licensee to report to the Board any restatement of a client that is "a publicly traded company that is required to file a tax return with the California Franchise Tax Board . . . ." Once received by the Board, restatements become public records. Some are also available to the public through other regulatory agencies such as the federal Securities and Exchange Commission.

Mr. Olson's primary rulemaking request would mandate and require the following:

- "1. A licensee shall report to the board in writing any restatement of a financial statement and related disclosures by a client which issues any publicly-traded security.
- "2. All restatements and accompanying materials be kept permanently by the board."

The petitioner's proposal would amend Board regulation section 59 in a manner that would result in expanding the number of reports that would be required to be filed with the Board. Mr. Olson's proposal would require disclosure of the restatements of any company that issues a publicly traded security. The current regulation only requires the reporting of restatements of publicly traded companies that are required to file tax returns with the California Franchise Tax Board.

Petitioner, Carl Olson, claims that there were 1,876 restatements issued by publicly traded companies in 2006 and 1,599 in 2005. Currently, the Board receives approximately 200 restatements that relate to publicly traded companies pursuant to requirements of the Board's regulation. (Calif. Code of Regs., tit. 16, § 59.) The discrepancy between the number of the reports the Board receives and the number of total restatements issued by publicly-traded companies is due to the fact

that section 59 limits the reporting of restatements of clients that are required to file a tax return with the California Franchise Tax Board.

**DISCUSSION**

The Board considered Mr. Olson's proposal at its September 19, 2008 meeting held in San Diego.

**1. General Response**

In recent meetings of the Board, the Board discussed the marginal utility of reported restatements in the area of enforcement. Staffing limitations allow for the Board's Enforcement Division to only briefly review these restatements. While Board staff does not perform a thorough investigation of restatements, the Security and Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB) have access to restated financial statements. After investigation, these agencies often impose discipline in the form of sanctions. Any sanctions imposed by either the SEC or PCAOB will generally lead to disciplinary action by the Board.

The Board's staff anticipates that Mr. Olson's regulatory proposal would significantly expand the number of reports from approximately 200 to 1,500. This increase in the volume of restatements that will need to be reported to the Board would increase the costs to the accounting firms as well as the Board. Also, the vast bulk of the additional restatements received by the Board would relate to audit work performed by individual Certified Public Accountants not licensed by the Board and for audit work performed outside of California. Although costs to both licensees and the Board would increase under Mr. Olson's proposed regulation, no additional benefits would be derived by either the Board or the public.

The Board adopted section 59 of its regulations, effective January 23, 2004, recognizing that the self reporting of restatements should focus on entities that have a specific nexus to California. Nothing has changed since 2004 to warrant wider self reporting of restatements.

**2. Requiring all reported restatements and accompanying materials be kept permanently by the Board.**

There is no need for the Board to keep and maintain reported restatements and accompanying materials permanently. As stated above, the Board has discussed the marginal utility of reviewing reported restatements in the area of enforcement. Because Mr. Olson's proposal would increase the number of reports to the Board from 200 to 1500, maintaining this large volume of records permanently will prove to be very costly and not necessary.

More importantly, Business and Professions Code section 5063 does not require or mandate the Board to

be a repository for all restatements. The statute and section 59 of the Board's regulations simply provide that when certain conditions are met, a licensee is required to report and provide a copy of a restatement of a financial statement reporting the correction of any error in a previously issued financial statement. After reviewing the reported restatements, the documents are generally purged and destroyed on an ongoing continuing basis since the staff has no further need for them and storage and file maintenance is expensive.

Notwithstanding the destruction of these documents, the restatements are available to the Board for retrieval from the federal Securities and Exchange Commission's website via the EDGAR computer system if a future need occurs. Consequently, there is no need for the Board to be a permanent depository for restatement reports.

### DECISION

For all the reasons stated above, the Board **DENIES** the rulemaking petition submitted by Mr. Carl Olson.

At its September 19<sup>th</sup>, 2008, meeting held at the Westin Hotel in San Diego, California, the Board voted and took action to deny Mr. Olson's petition. This decision is effective immediately.

/s/  
PATTI BOWERS  
Interim Executive Officer  
California Board of Accountancy  
October 3, 2008

cc: Carl Olson

## OAL REGULATORY DETERMINATION

### OFFICE OF ADMINISTRATIVE LAW

#### DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

(Pursuant to Government Code Section 11340.5  
and Title 1, section 270, of the  
California Code of Regulations)

## DEPARTMENT OF CORRECTIONS AND REHABILITATION

Date: October 6, 2008  
To: Roosevelt Moore  
From: Chapter Two Compliance Unit  
Subject: **2008 OAL DETERMINATION NO. 29(S)**  
**(CTU2008-0916-01)**  
(Summary Disposition issued pursuant to  
Gov. Code, sec. 11340.5; Cal. Code Regs., tit.  
1, sec. 270(f))

Petition challenging as an underground  
regulation California Code of Regulations,  
title 15, section 3341.5(c)(9)(K) dealing with  
sexual misconduct, indecent exposure and  
sexually disorderly conduct

On September 16, 2008, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether California Code of Regulations, title 15, section 3341.5(c)(9)(K) dealing with sexual misconduct, indecent exposure and sexually disorderly conduct constitutes an underground regulation.

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA). If a rule meets the definition of a regulation in Government Code section 11342.600, but was not adopted pursuant to the APA, it may be an "underground regulation" as defined in California Code of Regulations, title 1, section 250(a):

"Underground regulation" means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, *but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA* and is not subject to an express statutory exemption from adoption pursuant to the APA. (Emphasis added)

Pursuant to Government Code section 11343.6, the filing of a rule with the Secretary of State raises the rebuttable presumption that it was duly adopted and that all the requirements of the APA have been met. You have challenged as an underground regulation California Code of Regulations, title 15, section 3341.5(c)(9)(K), dealing with sexual misconduct, indecent exposure and sexually disorderly conduct. On February 23, 2007, this section was filed with the Secretary



of State as an emergency regulation required for the operational needs of the Department of Corrections and Rehabilitation pursuant to Penal Code section 5058.3.<sup>1</sup> The Certificate of Compliance for Section 3341.5(c)(9)(K) was filed with the Secretary of State on September 5, 2007.<sup>2</sup>

Section 3341.5(c)(9)(K) has been duly adopted as a regulation and filed with the Secretary of State pursuant to the APA. There is no evidence to rebut the statutory presumption established pursuant to Government Code section 11343.6. Therefore, OAL finds that the challenged rule is not an underground regulation.<sup>3</sup>

<sup>1</sup> Penal Code section 5058.3 provides:

(a) Emergency adoption, amendment, or repeal of a regulation by the director shall be conducted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except with respect to the following:

(1) Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the initial effective period for an emergency adoption, amendment, or repeal of a regulation shall be 160 days.

(2) Notwithstanding subdivision (b) of Section 11346.1 of the Government Code, no showing of emergency is necessary in order to adopt, amend, or repeal an emergency regulation if the director instead certifies, in a written statement filed with the Office of Administrative Law, that operational needs of the department require adoption, amendment, or repeal of the regulation on an emergency basis. The written statement shall include a description of the underlying facts and an explanation of the operational need to use the emergency rulemaking procedure. This paragraph provides an alternative to filing a statement of emergency pursuant to subdivision (b) of Section 11346.1 of the Government Code. It does not preclude filing a statement of emergency. This paragraph only applies to the initial adoption and one readoption of an emergency regulation.

<sup>2</sup> Regulations adopted, amended or repealed as an emergency pursuant to Government Code section 11346.1, or pursuant to the alternative procedures for the Department of Corrections and Rehabilitation established in Penal Code section 5058.3, are effective for a limited period. To make the adoption, amendment or repeal of the emergency regulations permanent, the agency must comply with Government Code section 11346.1(c). Government Code section 11346.1(c) requires the rulemaking agency to submit a complete rulemaking file to OAL and to certify that it has completed the rulemaking requirements in the APA within the limited time the emergency regulations are in effect. This is known as a Certificate of Compliance.

<sup>3</sup> The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

*(Footnote 3 continued on next column)*

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/  
SUSAN LAPSLEY  
Director

/s/  
Kathleen Eddy  
Senior Counsel

Copy: Matthew Cate  
Timothy Lockwood

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2008-0821-04  
BUREAU OF AUTOMOTIVE REPAIR  
License Prefix Standardization

This change without regulatory effect repeals an obsolete license prefix mechanism used in the Bureau's prior computerized registration system.

Title 16  
California Code of Regulations  
AMEND: 3351.2  
Filed 10/02/2008  
Agency Contact: Virginia Vu (916) 255-2135

File# 2008-0904-03  
CALIFORNIA GAMBLING CONTROL  
COMMISSION  
2-Year License Fees & 2-Year TPPS & Gambling  
Business Licenses

*(Footnote 3 continued)*

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

...  
(C) *The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.*

... [Emphasis added.]

This rulemaking implements SB 730 (Stats. 2007 Ch. 438) by establishing two-year license application fees for gambling establishments, key employees, providers of Third-Party Proposition Player Services (“TPPS”) and gambling businesses, as those terms are defined in Business and Professions Code section 19805. The rulemaking also moves all fees into a single section, changes them according to the new term of the license (in most cases doubling them to account for the doubling of the term) and deletes obsolete language from the regulations.

**Title 4**

California Code of Regulations

ADOPT: 12008 AMEND: 12122, 12200.14, 12200.20, 12202, 12203A, 12203.2, 12205.1, 12218.13, 12220.14, 12220.20, 12220.20A, 12222, 12237, 12301, 12342, 12343, 12344, 12345

Filed 10/03/2008

Effective 11/02/2008

Agency Contact: James Allen (916) 255-4300

File# 2008-0922-01

**CALIFORNIA HIGHWAY PATROL****Liquefied Natural Gas Systems**

This rulemaking updates the National Fire Protection Association standards incorporated by reference; and requires that at a minimum, the gas detection system shall be tested three times per calendar year at equal intervals and the testing results shall be maintained as a permanent part of the vehicle service history records.

**Title 13**

California Code of Regulations

AMEND: 935

Filed 10/07/2008

Effective 11/06/2008

Agency Contact: Gary Ritz (916) 445-1865

File# 2008-0821-02

**COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING****Employment Status Notification**

This rulemaking adopts new regulations to allow notifications of changes in appointments to be filed electronically. The rulemaking also adopts a new regulation specifying the required information to be reported if a peace officer is disqualified from service.

**Title 11**

California Code of Regulations

AMEND: 1003, 9040, 9041, 9073(b)

Filed 10/02/2008

Effective 11/01/2008

Agency Contact: Connie A. Paoli (916) 227-4854

File# 2008-0821-01

**COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING****Hate Crimes Framework and Policy**

This regulatory action establishes the legislatively mandated guidelines (“Hate Crimes Policy Guidelines”), incorporated by reference, that contain the framework and formal policies on hate crimes that all state law enforcement agencies are required to adopt and local law enforcement agencies are encouraged to adopt.

**Title 11**

California Code of Regulations

AMEND: 1081

Filed 10/02/2008

Effective 11/01/2008

Agency Contact: Connie A. Paoli (916) 227-4854

File# 2008-0829-01

**CONTRACTORS STATE LICENSE BOARD****C-47 General Manufactured Housing Contractor**

This regulatory action revises the definition of a C-47 General Manufactured Housing Contractor pursuant to Business and Professions Code section 7026.11.

**Title 16**

California Code of Regulations

AMEND: 832.47

Filed 10/07/2008

Effective 11/06/2008

Agency Contact: Betsy Figueria (916) 255-3369

File# 2008-0820-06

**DEPARTMENT OF FOOD AND AGRICULTURE****Light Brown Apple Moth Interior Quarantine**

This is the certification of seven emergency regulatory actions designating parts of Alameda, Contra Costa, Marin, Monterey, San Benito, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano and Sonoma counties as additional “quarantine areas” with respect to the light brown apple moth (*Epiphyas postvittana*) [08-0318-03E, 08-0403-02E, 08-0416-01E, 08-0428-02E, 08-0505-03E, 08-0515-02E and 08-0528-03E].

Title 3  
California Code of Regulations  
AMEND: 3434(b)  
Filed 10/01/2008  
Agency Contact: Stephen Brown (916) 654-1017

File# 2008-0826-02  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
RV Repeal: Design and Construction Standards for Recreational Vehicles

Effective January 1, 1999, Chapter 293, Statutes of 1998, repealed the Department's authority to review and approve plans, conduct inspections, and issue insignias of approval to recreational vehicles to indicate compliance with applicable standards. These enforcement activities by the Department as to recreational vehicles ceased on and after January 1, 1999. This regulatory action revises existing regulations to delete regulatory provisions for which statutory authority has been repealed.

Title 25  
California Code of Regulations  
AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1  
Filed 10/08/2008  
Agency Contact: Jim McGowan (916) 327-2658

File# 2008-0820-04  
DEPARTMENT OF MOTOR VEHICLES  
Fee Adjustment

This regulatory action revises specified fees based upon the increase in the Consumers Price Index for the prior year pursuant to section 1678(b) and 1685(e) of the Vehicle Code.

Title 13  
California Code of Regulations  
AMEND: 423.00  
Filed 10/02/2008  
Effective 01/01/2009  
Agency Contact: Christie Patrick (916) 657-5567

File# 2008-0827-02  
DEPARTMENT OF MOTOR VEHICLES  
Driver Licenses and Identification Cards: Legal Presence

The DMV is responsible for issuing drivers licenses and ID cards to those who have "lawful permanent residency." This rulemaking incorporates the definition of "lawful permanent residency" from the Code of Federal Regulations. This amendment also changes INS to DHS (Dept. of Homeland Security) in references throughout two sections pursuant to recent changes in federal government structure. It also changes references from CYA (CA Youth Authority) to Division of Juvenile Justice under CDCR pursuant to California's reorganized structure. They are also adding a provision that addresses the fact that some "legal presence documents" lack an expiration date. In the case that the federal document does not have an expiration date, the license will be granted for a period not to exceed one year from the date the DHS document was issued pursuant to federal requirements.

Title 13  
California Code of Regulations  
AMEND: 15.00, 15.03  
Filed 10/02/2008  
Effective 11/01/2008  
Agency Contact: Randi Calkins (916) 657-8898

File# 2008-0825-03  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD  
Outdoor Advertising Structures — Fall Protection

This action updates the standards for ladders and associated lifelines and scaffolds used to prevent workers from falling from an outdoor billboard.

Title 8  
California Code of Regulations  
AMEND: 3412, 3413, 3414, 3416  
Filed 10/01/2008  
Effective 10/31/2008  
Agency Contact: Marley Hart (916) 274-5721

File# 2008-0903-01  
STATE WATER RESOURCES CONTROL BOARD  
Total Maximum Daily Load for Metals for Ballona Creek

This regulatory action amends the TMDL for Ballona Creek in the Los Angeles region to reduce metals (specifically lead, zinc, copper and selenium) for both dry weather and wet weather situations.

Title 23  
California Code of Regulations  
AMEND: 3939.20  
Filed 10/06/2008  
Agency Contact:  
Michael Buckman (916) 341-5479

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN May 7, 2008 TO  
October 8, 2008**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 2**

09/04/08 ADOPT: 18530.45  
09/04/08 AMEND: 18946.4  
08/14/08 AMEND: 1859.2, 1859.121, 1859.122, 1859.127, 1859.129  
08/08/08 ADOPT: 21905.5 AMEND: 21903, 21905  
07/16/08 ADOPT: 18946.6  
07/10/08 AMEND: 1859.76, 1859.83, 1859.104.3  
07/10/08 AMEND: 1859.71  
07/08/08 AMEND: 2271  
06/26/08 AMEND: 554.2, 554.3  
06/17/08 ADOPT: div. 8, ch. 112, sec. 59570  
06/11/08 AMEND: 18360, 18361  
06/11/08 ADOPT: 18421.7 AMEND: 18401  
06/11/08 ADOPT: 18944.2 REPEAL: 18944.2  
05/21/08 ADOPT: 59580  
05/14/08 ADOPT: 18413  
05/13/08 ADOPT: 59620

**Title 3**

10/01/08 AMEND: 3434(b)  
09/24/08 AMEND: 810.1 REPEAL: 810  
09/23/08 AMEND: 3591.20(a)  
09/23/08 AMEND: 3434(b)  
09/18/08 AMEND: 3591.20(a)  
09/17/08 AMEND: 3435(b)  
09/11/08 AMEND: 3591.20(a)  
09/10/08 AMEND: 3434  
09/05/08 ADOPT: 3435  
09/03/08 AMEND: 6452.2  
09/02/08 AMEND: 3433(b)  
09/02/08 AMEND: 3591.6(a)  
08/26/08 AMEND: 3434(b)  
08/25/08 AMEND: 3423(b)  
08/18/08 AMEND: 6738, 6739  
08/18/08 AMEND: 3434(b)  
08/13/08 AMEND: 3434(b)  
08/12/08 AMEND: 3406(b)  
08/11/08 AMEND: 3406(b)  
08/01/08 AMEND: 3589(a)  
08/01/08 ADOPT: 3591.22

07/28/08 AMEND: 3434(b)  
07/25/08 AMEND: 902.9  
07/24/08 ADOPT: 3591.21  
07/22/08 AMEND: 3417(b)  
07/16/08 AMEND: 3700  
07/16/08 AMEND: 3406  
07/14/08 AMEND: 3963  
07/11/08 AMEND: 3434(b)  
07/09/08 AMEND: 3434(b)  
06/30/08 AMEND: 3589(a)  
06/24/08 AMEND: 3963  
06/24/08 AMEND: 3060.3  
06/23/08 AMEND: 3591.5(a)  
06/17/08 AMEND: 2751  
06/16/08 AMEND: 3434(b)  
06/11/08 AMEND: 3434(b)  
06/09/08 AMEND: 3700  
06/04/08 AMEND: 3434(b)  
05/23/08 AMEND: 3434(b)  
05/23/08 AMEND: 1438.7, 1438.17  
05/07/08 AMEND: 3434(b)

**Title 4**

10/03/08 ADOPT: 12008 AMEND: 12122, 12200.14, 12200.20, 12202, 12203A, 12203.2, 12205.1, 12218.13, 12220.14, 12220.20, 12220.20A, 12222, 12237, 12301, 12342, 12343, 12344, 12345  
09/29/08 AMEND: 1843.2  
09/02/08 AMEND: 1850  
08/25/08 ADOPT: 8102, 8102.1, 8102.2, 8102.3, 8102.4, 8102.5, 8102.6, 8102.7, 8102.8, 8102.9, 8102.10, 8102.11, 8102.12, 8102.13, 8102.14, 8102.15 AMEND: 8090, 8091, 8092, 8093, 8094, 8095, 8096, 8097, 8098, 8099, 8100, 8101  
08/21/08 ADOPT: 1634 AMEND: 1420  
08/12/08 ADOPT: 4180, 4181  
08/08/08 AMEND: 12002, 12100, 12101, 12120, 12122, 12128, 12130, 12140, 12200, 12200.3, 12200.7, 12200.9, 12200.10A, 12200.10B, 12200.10C, 12200.11, 12200.13, 12200.14, 12200.16, 12200.17, 12200.18, 12200.20, 12200.21, 12201, 12202, 12203, 12203A, 12203.1, 12203.2, 12203.3, 12203.5, 12204, 12205, 12205.1, 12218, 12218.1, 12218.5, 12218.7, 12218.11, 12220, 12220.3, 12220.13, 12220.14, 12220.16, 12220.18, 12220.20, 12220.20A, 12220.21, 12220.23, 12221, 12222, 12223, 12224, 12225, 12225.1, 12233, 12234, 12235, 12236, 12300, 12301, 12301.1, 12302, 12303, 12304, 12305, 12306, 12308, 12309, 12310, 12335, 12341, 12342, 12343, 12344,



	12345, 12347, 12358, 12359, 12360, 12370, 12400, 12401, 12402, 12403, 12404, 12405, 12460, 12463, 12464, 12466, 12550, 12552, 12554, 12556, 12558, 12560, 12562, 12564, 12566, 12568, 12590		09/17/08	AMEND: 1512
08/04/08	AMEND: 1843.2		08/26/08	AMEND: 5168, 6775
07/14/08	AMEND: 8070, 8072, 8073		08/25/08	ADOPT: 9721.11, 9721.12, 9721.13, 9721.14, 9721.21, 9721.33 AMEND: 9720.1, 9720.2, 9721.1, 9721.2, 9721.31, 9721.32, 9722, 9722.1, 9722.2, 9723
07/10/08	AMEND: 1481, 1783, 1784		08/08/08	AMEND: 1532.1
06/24/08	ADOPT: 12335, 12340, 12357 AMEND: 12342, 12343, 12344, 12345, 12358, 12359		08/04/08	AMEND: 3649
05/23/08	ADOPT: 1843.3 AMEND: 1843.2		08/04/08	AMEND: Appendix C following section 560, Appendices A, B, and C following section 1938, and section 5001
<b>Title 5</b>			07/30/08	AMEND: 1524
09/10/08	AMEND: 41000		07/18/08	AMEND: 290.0, 290.1, 291.0, 291.1, 291.2, 291.5, 292.0, 294.0, 295.0, 296.0, 296.1, 296.2, 296.3, 296.4
09/09/08	ADOPT: 19828.3, 19837.2 AMEND: 19816, 19816.1, 19828.2, 19837.1, 19846		07/18/08	AMEND: 2500.7
08/11/08	AMEND: 41000		07/17/08	AMEND: 4885, 4924, 5004
08/04/08	ADOPT: 15575, 15576, 15577, 15578		07/17/08	AMEND: 1604.24, 1604.26
07/16/08	AMEND: 18272		07/14/08	AMEND: Appendix B following 1541.1
06/24/08	AMEND: 80021		06/30/08	ADOPT: 4300.1 AMEND: 4297, 4300
06/19/08	AMEND: 4600(I)		06/06/08	AMEND: 1710(k)(2)
06/13/08	ADOPT: 55185, 57017 AMEND: 55180, 57001.7, 58003.4, 58770, 58771, 58774		05/19/08	AMEND: 1529, 5208, 8358
06/10/08	AMEND: 30910, 30911, 30912, 30913, 30914, 30916		05/19/08	AMEND: 1710
06/10/08	AMEND: 30920, 30921, 30922, 30923, 30924, 30925, 30927		05/19/08	AMEND: 797, 1604.10, 1601.21, 1662
06/09/08	ADOPT: 19828.3, 19837.2 AMEND: 19816, 19816.1, 19828.2, 19837.1, 19846		<b>Title 9</b>	
05/28/08	ADOPT: 18085.5, 18086.1 AMEND: 18086, 18087, 18088, 18091, 18101, 18102, 18104		07/11/08	ADOPT: 1810.207.5, 1810.220.5 AMEND: 1830.220
05/21/08	ADOPT: 6105 AMEND: 6100, 6104		07/02/08	AMEND: 9515(d), 10522(b)
05/13/08	AMEND: 15440, 15441, 15442, 15443, 15444, 15445, 15446, 15447, 15448, 15449, 15450, 15451, 15452, 15453, 15454, 15455, 15456, 15457, 15458, 15459, 15460, 15461, 15462, 15463, 15464, 15467, 15468, 15469, 15471, 15471.1, 15471.2, 15472, 15473, 15474, 15475, 15476, 15477, 15478, 15479, 15479.5, 15480, 15481, 15483, 15484, 15485, 15486, 15487, 15488, 15489, 15490, 15493		<b>Title 10</b>	
<b>Title 7</b>			09/22/08	AMEND: 2699.6500, 2699.6803, 2699.6805
06/10/08	ADOPT: 236.1		09/15/08	AMEND: 2699.6619, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6711, 2699.6713, 2699.6715, 2699.6717, 2699.6721, 2699.6723, 2699.6725
<b>Title 8</b>			09/11/08	AMEND: 2330.1
10/01/08	AMEND: 3412, 3413, 3414, 3416		08/15/08	ADOPT: 2844 AMEND: 2840, 2842
09/23/08	AMEND: 5155		08/14/08	AMEND: 2699.100, 2699.201, 2699.205, 2699.207, 2699.209, 2699.400
09/22/08	ADOPT: 1530.1		08/04/08	AMEND: 5000, 5110, 5111, 5112, 5113, 5114, 5116, 5117 REPEAL: 5119
			07/30/08	AMEND: 2498.6
			07/24/08	AMEND: 2498.4.9
			07/23/08	AMEND: 2498.4.9
			07/23/08	AMEND: 2498.4.9
			07/21/08	ADOPT: 2330.1, 2330.3, 2330.4, 2330.5
			07/17/08	AMEND: 2498.6
			07/10/08	REPEAL: 2191
			07/10/08	AMEND: 2699.6611
			07/07/08	ADOPT: 2699.6602, 2699.6604 AMEND: 2699.6603, 2699.6605,

	2699.6607, 2699.6608, 2699.6611, 2699.6625	09/11/08	AMEND: 10310, 10360, 10810, 10820, Appendix D, Appendix F
06/24/08	ADOPT: 2232.45.1, 2232.45.2, 2232.45.3, 2232.45.4, 2232.45.5	09/09/08	ADOPT: 17987, 17987.1, 17987.2, 17987.3, 17987.4, 17987.5, 17987.6
	AMEND: 2536.2	09/04/08	AMEND: 670.2
06/16/08	AMEND: 2318.6, 2353.1	08/27/08	AMEND: 300
06/02/08	ADOPT: 10.190202	08/25/08	ADOPT: 27.32 AMEND: 27.20(f), 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58
05/27/08	AMEND: 2249.2–2249.9, 2249.12, 2249.15	08/18/08	AMEND: 749.3
05/16/08	ADOPT: 2642.8, 2644.28 AMEND: 2642.6, 2642.7, 2644.2, 2644.3, 2644.6, 2644.7, 2644.8, 2644.12, 2644.16, 2644.17, 2644.19, 2644.20, 2644.21, 2644.23, 2644.25, 2644.27	08/14/08	ADOPT: 3950, 3951, 3952, 3953, 3954, 3955, 3956, 3957, 3958, 3959, 3960, 3961, 3962, 3963, 3964, 3965
<b>Title 11</b>		08/12/08	ADOPT: 124
10/02/08	AMEND: 1003, 9040, 9041, 9073(b)	08/11/08	AMEND: 503
10/02/08	AMEND: 1081	08/06/08	AMEND: 815.05, 818.02, 825.05, 827.02
09/23/08	ADOPT: 44.3	07/28/08	AMEND: 702
07/08/08	ADOPT: 30.14	07/23/08	AMEND: 7.50
06/17/08	AMEND: 1005, 1007, 1008, 1080	07/15/08	ADOPT: 4860
05/28/08	AMEND: 2000, 2001, 2010, 2020, 2030, 2037, 2038, 2050, 2051, 2052, 2053, 2060, 2070, 2071, 2072, 2140	07/08/08	ADOPT: 124.1 AMEND: 122, 125, 149.1, 150, 150.02, 150.03, 150.05, 163, 163.5, 164, 174, 180.3
<b>Title 13</b>		07/02/08	AMEND: 7.50
10/07/08	AMEND: 935	07/01/08	AMEND: 27.80
10/02/08	AMEND: 423.00	06/30/08	AMEND: 120.7
10/02/08	AMEND: 15.00, 15.03	06/23/08	AMEND: 18660.23, 18660.24, 18660.25, 18660.33, 18660.34
09/08/08	AMEND: 2449	06/20/08	AMEND: 360, 361, 362, 363, 364, 551, 708, 712
08/29/08	ADOPT: 2660(a)(0.5), 2260(a)(0.7), 2260(a)(6.9), 2260(a)(7.5), 2260(a)(8.5), 2260(a)(10.5), 2260(a)(10.7), 2260(a)(19.7), 2260(a)(19.8), 2260(a)(23.5), 2260(a)(23.7), 2260(a)(37), 2260(a)(38), 2260(a)(39), 2262.3(d), 2264.2(a)(3), 2264.2(b)(5), 2264.2(d), 2265(c)(4), 2265.1, 2265.5, 2266(b)(3), 2266(b)(4), 2266(b)(5) AMEND: 2261, 2262, 2262.3, 2262.4, 2262.5, 2262.9, 2263, 2263.7, 2264.2, 2265, 2266, 2266.5, 2270, 2271, 2273	06/18/08	ADOPT: 355
08/13/08	ADOPT: 619.2 AMEND: 615, 615.1, 616, 617, 618, 619, 619.1	06/16/08	AMEND: 10602, 10800
07/15/08	AMEND: 440.04	05/15/08	AMEND: 353, 475
06/16/08	ADOPT: 156.01	05/09/08	AMEND: 27.20, 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58
06/16/08	AMEND: 1961, 1965	<b>Title 15</b>	
06/10/08	AMEND: 2222	09/15/08	ADOPT: 3269
06/02/08	AMEND: 1141	09/03/08	AMEND: 2253
05/16/08	ADOPT: 2449, 2449.1, 2449.2, 2449.3	08/29/08	AMEND: 3000, 3261.1, 3261.2, 3261.4, 3261.5, 3261.7, 3267
<b>Title 13, 17</b>		08/04/08	AMEND: 2041
07/02/08	AMEND: 2299.1, 93118	08/04/08	AMEND: 3000, 3005, 3006, 3008, 3009, 3011, 3012, 3013, 3015, 3016, 3290, 3310, 3313, 3314, 3315, 3317, 3318, 3320, 3323, 3327, 3328
<b>Title 14</b>		07/30/08	ADOPT: 3503, 3505, 3506, 3507, 3508, 3509, 3510, 3511, new Article 2 and title, 3520, 3521, 3521.1, 3521.2, 3521.3, 3521.4, 3521.5, 3521.6, 3522, 3523, 3524, 3525, 3526, 3527, new Article 3 and title, 3540, 3541, 3542, 3543, 3544,
09/22/08	AMEND: 4900 REPEAL: 4901, 4902, 4903, 4904		
09/15/08	AMEND: 502		

3545, 3546, 3547, 3548, 3549, new Article 4 and title, 3560, 3561, 3562, 3563, 3564, new Article 5 and title, 3570, 3571, new Article 6 and title, 3580, 3581, 3582, new Article 7 and title, new Article 8 and title, new Article 9 and title, new Article 10 and title, new Article 12 and title, 3640, new Article 13 and title, 3650, 3651, 3652, 3652.1, 3653, 3654, new Article 14 and title, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, new Article 15 and title, 3720, 3721, 3721.1, 3722, 3723, new Article 16 untitled, 3730, new Article 17 and title, new Article 18 and title, 3750, 3751, 3752, 3753, 3754, 3755, 3756, new Article 19 and title, 3760, 3761, 3762, 3763, 3764, 3765, 3766, new Article 20 and title, 3770, 3771, and 3772. AMEND: 3604, 3605, 3605.5, 3701.1, 3705, 3706, 3801, 3802, renumber old Article 2 with title, and 3815.		07/30/08	AMEND: 2649
		07/23/08	AMEND: 1399.152.2, 1399.153, 1399.153.3
		07/18/08	AMEND: 134 REPEAL: 135
		07/09/08	ADOPT: 1984
		07/08/08	AMEND: 1399.540
		07/03/08	AMEND: 1568
		07/02/08	AMEND: 390, 390.1, 390.3, 390.4, 390.5, 390.6 REPEAL: 390.2
		06/30/08	ADOPT: 119.7
		06/26/08	AMEND: 109, 116
		06/17/08	ADOPT: 4580
		06/16/08	ADOPT: 4400, 4402, 4404, 4406, 4420, 4422, 4424, 4426, 4428, 4500, 4520, 4522, 4540, 4542, 4560, 4562
		06/11/08	REPEAL: 1399.664
		06/04/08	AMEND: 931
		05/21/08	AMEND: 4141
		05/20/08	AMEND: 905
		05/19/08	ADOPT: 4440, 4442, 4443, 4444, 4446, 4448, 4450, 4452, 4470, 4472, 4474, 4476, 4478, 4480, 4482, 4484
07/17/08	ADOPT: 3134.1 AMEND: 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147	05/16/08	AMEND: 1399.696, 1399.697
07/14/08	ADOPT: 1700, 1706, 1712, 1714, 1730, 1731, 1740, 1747, 1747.5, 1748, 1749, 1750, 1751, 1752, 1753, 1754, 1756, 1757, 1760, 1766, 1767, 1768, 1770, 1772, 1776, 1778, 1788, 1790, 1792	05/12/08	AMEND: 1399.523
		05/08/08	REPEAL: 3300
07/08/08	ADOPT: 3334 AMEND: 3000	05/07/08	ADOPT: 1364.32 AMEND: 1364.30
06/23/08	ADOPT: 2275	<b>Title 17</b>	
06/04/08	AMEND: 3190, 3191	09/24/08	AMEND: 52082, 56103, 56104, 58670
05/23/08	ADOPT: 1417 AMEND: 1029, 1206, 1248, 1357, 1358, 1461	09/18/08	ADOPT: 94800, 94801, 94802, 94803, 94804, 94805, 94806, 94807, 94808, 94809, 94810
<b>Title 16</b>		09/05/08	ADOPT: 98100 REPEAL: 96100
10/07/08	AMEND: 832.47	08/06/08	AMEND: 94006
10/02/08	AMEND: 3351.2	07/14/08	AMEND: 57310, 57332
09/29/08	AMEND: 2522, 2524, 2579, 2579.10 REPEAL: 2522.5, 2579.1	07/14/08	ADOPT: 100120
09/22/08	AMEND: 4154, 4155	07/08/08	AMEND: 95005
09/19/08	AMEND: 11.5, 12, 12.5, 37, 87.1	07/02/08	AMEND: 2299.1, 93118
09/10/08	ADOPT: 1028.2, 1028.3, 1028.4, 1028.5 AMEND: 1021	06/12/08	ADOPT: 94016, 94168 AMEND: 94010, 94011
08/27/08	AMEND: 2250 REPEAL: 2274, 2277	05/30/08	AMEND: 100080, 100085, 100090, 100100
08/25/08	AMEND: 1399.480, 1399.481, 1399.482, 1399.483, 1399.484, 1399.485, 1399.486, 1399.487, 1399.488, 1399.489, 1399.489.1	<b>Title 18</b>	
08/15/08	AMEND: 1361	09/24/08	AMEND: 1574
08/13/08	AMEND: 3394.6	09/24/08	AMEND: 1599
08/12/08	AMEND: 3394.4	08/11/08	AMEND: 1807, 1828
08/07/08	AMEND: 4161	08/05/08	AMEND: 3000
		07/16/08	AMEND: 5216, 5310, 5311, 5326.4, 5326.6, 5333, 5333.4, 5333.6, 5523.4
		06/23/08	AMEND: 19503
		06/10/08	ADOPT: 2558, 2559, 2559.1, 2559.3, 2559.5
		06/04/08	AMEND: 23038(b)–2, 23038(b)–3

**Title 19**

09/24/08 AMEND: 560  
 09/24/08 AMEND: 906.3  
 08/07/08 ADOPT: 1980.00, 1980.01, 1980.02, 1980.03, 1980.04, 1980.05, 1980.06, 1980.07, 1990.00, 1990.01, 1990.02, 1990.03, 1990.04, 1990.05, 1990.06, 1990.07, 1990.08, 1990.09, 1990.10, 1990.11, 1990.12, 1990.13  
 06/06/08 AMEND: 200, 203, 204, 206, 207, 208, 209, 211, 212, 214, 215, 216, 217

**Title 20**

05/20/08 AMEND: 2323(a), 2323(b), 2323(c), 2323(d), 2323(e), 2323(f), 2325(a), 2329(c), 2329(e), 2330(a), 2332(d), 2333(a), 2335(b)

**Title 21**

06/30/08 ADOPT: 111, 112, 113, 114, 121, 131, 132, 133, 134, 135, 136, 141, 151, 152, 153

**Title 22**

09/26/08 AMEND: 3258-1, 3267-1, 3267-2  
 08/07/08 AMEND: 51098.5, 51202.5, 51309.5, 51503.3  
 06/26/08 AMEND: 100140, 100141, 100163, 100172, 100174  
 06/23/08 AMEND: 12805  
 06/17/08 ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007, 15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017,

15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040

05/08/08 ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11

**Title 22, MPP**

07/09/08 ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405  
 07/09/08 ADOPT: 88054, 89318 AMEND: 80017, 83017, 83064, 83075, 84065, 84068.2, 84090, 84165, 84265, 86065, 86068.2, 86517, 88001, 88022, 88031, 88065.3, 88068.2, 88069.7, 89317, 89378, 89405  
 06/30/08 AMEND: 63-300, 63-504, 63-505, 63-601

**Title 22, 27**

07/07/08 AMEND: Title 22, 67450.11; Title 27, Div. 3, subd. 1, Chapter 4C. and Chapter 6

**Title 23**

10/06/08 AMEND: 3939.20  
 09/17/08 ADOPT: 3919.4  
 07/01/08 AMEND: 3935  
 06/27/08 ADOPT: 3949.5  
 06/26/08 ADOPT: 2918  
 05/13/08 ADOPT: 3919.3  
 05/12/08 AMEND: 3947  
 05/12/08 AMEND: 3939.22

**Title 25**

10/08/08 AMEND: 4000, 4002, 4004, 4010, 4017, 4020, 4024, 4025, 4030, 4032, 4033, 4034.5, 4040, 4041, 4049.1, 4049.3, 4049.5, 4049.7, 4049.9, Appendix A REPEAL: 4021, 4031.5, 4047, 4047.3, 4047.6, 4550, 4560, 4570, 4580, 4600, 4603, 4605, 4619, 4624, 4626, 4665, 4670, 4680, 4800, Appendix RV-P-1  
 08/29/08 ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216  
 07/14/08 AMEND: 2002, 4004, 5002, 5511

**Title 27**

09/05/08 AMEND: 25601  
 08/08/08 AMEND: 25705(b)



06/17/08	ADOPT: 25000, 25102, 25103, 25104, 25201, 25203, 25204, 25301, 25302, 25303, 25304, 25305, 25306, 25401, 25403, 25405, 25501, 25502, 25503, 25504, 25505, 25601, 25701, 25703, 25705, 25707, 25709, 25711, 25713, 25721, 25801, 25803, 25805, 25821, 25900, 25901, 25902, 25903, 27000, 28001, 28002, 28003, 28004, 28006, 28007, 28008, 28009, 28010, 28011, 28012, 28013, 28014, 28015, 28016, 28017, 28018, 28019, 28020, 28021, 28022, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 25036, 28037, 28038, 28039, 28040 REPEAL: 12000, 12102, 12103, 12104, 12201, 12203, 12204, 12301, 12302, 12303, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12505, 12601, 12701, 12703, 12705, 12707, 12709, 12711, 12713, 12721, 12801, 12803, 12805, 12821, 12900, 12901, 12902, 12903, 14000, 15001, 15002, 15003, 15004, 15006, 15007,	15008, 15009, 15010, 15011, 15012, 15013, 15014, 15015, 15016, 15017, 15018, 15019, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15033, 15034, 15035, 15036, 15037, 15038, 15039, 15040  <b>Title 28</b> 09/15/08 ADOPT: 1300.71.39  <b>Title MPP</b> 09/29/08 ADOPT: 14-611, 14-915, 14-916 AMEND: 14-610 09/18/08 AMEND: DSS MPP 63-102, 63-504 06/30/08 AMEND: 63-300, 63-504, 63-505, 63-601 06/30/08 AMEND: 42-721, 42-780, 44-303, 44-307, 44-318, 82-812 06/26/08 ADOPT: 40-037, 70-101, 70-102, 70-103, 70-104, 70-105 AMEND: 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201, 69-202, 69-205 06/04/08 AMEND: 63-301
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